

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

October 2022 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN J. GREGORY,

Defendant.

CR 2:23-cr-00231-JLS

I N D I C T M E N T

[18 U.S.C. § 287: False,
Fictitious, or Fraudulent Claims]

The Grand Jury charges:

COUNTS ONE THROUGH SEVENTEEN

[18 U.S.C. §§ 287, 2(b)]

A. INTRODUCTORY ALLEGATIONS

At times relevant to this Indictment:

1. Defendant KEVIN J. GREGORY resided in Los Angeles,
California.

The CARES Act and Coronavirus Response Credits

2. The Internal Revenue Service ("IRS") was an agency of the
United States responsible for collecting taxes and administering the
Internal Revenue Code.

1 3. The Coronavirus Aid, Relief, and Economic Security Act
2 ("CARES Act") authorized an employee retention tax credit that a
3 small business could use to reduce the employment tax it owed to the
4 IRS (the "CARES Act credit"), also known as the "employee retention
5 credit." To qualify, the business had to have been operational in
6 2020 and to have experienced (1) at least a partial suspension of the
7 business's operations because of a government COVID-19 order (e.g.,
8 an order limiting commerce, group meetings, or travel) or (2) a
9 significant decline in profits. The credit equaled a percentage of
10 the wages that the business paid to its employees during the quarter,
11 subject to a maximum amount.

12 4. The Families First Coronavirus Response Act ("Coronavirus
13 Response Act") and its amendments authorized the IRS to give a credit
14 against employment taxes to reimburse businesses for the wages paid
15 to employees who were on sick or family leave and could not work
16 because of COVID-19 (the "Coronavirus Response credit"), also known
17 as the "paid sick and family leave credit." The credit equaled the
18 wages the business paid to employees during the sick or family leave,
19 subject to a maximum amount.

20 5. The taxpayer could request both the CARES Act credit and
21 the Coronavirus Response credit on the IRS Form 941, also known as
22 the federal quarterly employer tax return, and was required to
23 truthfully state, among other things, the number of employees and
24 business's quarterly wages. Both credits could generate refunds, and
25 the taxpayer could request that the IRS pay the refunds in advance,
26 before the business filed its quarterly employment tax return.

27 6. Thus, to help alleviate the impact of COVID-19, the CARES
28 Act credit reduced businesses' employment tax burdens, and the

1 Coronavirus Response credit reimbursed businesses for the wages paid
2 to employees who could not work because of the pandemic.

3 7. An IRS Form 941X was an amended federal quarterly employer
4 tax return.

5 8. Federal Tax Deposits ("FTDs"), among other things,
6 consisted of employment taxes, including taxes that were withheld
7 from employees' wages. Certain employers were required to make
8 periodic FTDs to the IRS, normally on a monthly or semiweekly basis.
9 On the IRS Form 941, the employer could then deduct the FTDs paid to
10 the IRS for the applicable quarter from the total amount of
11 employment taxes due to the IRS.

12 Elijah USA Farm Holdings

13 9. On or about August 28, 2020, defendant GREGORY applied for
14 an employer identification number ("EIN") on behalf of an entity
15 called KG Enterprises.

16 10. On or about August 30, 2020, defendant GREGORY registered
17 the business Kevin J. Gregory dba KG Enterprises with the City of Los
18 Angeles Office of Finance ("LA Finance"), describing the business
19 purpose as "farming and transportation."

20 11. On or about March 15, 2021, defendant GREGORY filed a
21 business tax renewal form with LA Finance on which he updated KG
22 Enterprises's dba to Elijah Farm.

23 12. In or about April 2021, defendant GREGORY submitted a
24 filing with the IRS to update KG Enterprises's dba to Elijah USA Farm
25 Holdings ("Elijah Farm").

26 13. For tax years 2020 through 2022, Elijah Farm had no
27 substantial business operations or employees other than defendant
28 GREGORY and did not pay substantial FTDs to the IRS.

B. THE FALSE CLAIMS

14. On or about the dates listed below, in Los Angeles County, within the Central District of California, and elsewhere, defendant GREGORY made and presented, and willfully caused to be made and presented, to the IRS, which is part of the United States Department of the Treasury, false, fictitious, and fraudulent claims, as listed below, against the United States for the payment of tax refunds, which claims defendant GREGORY then knew to be false, fictitious, and fraudulent in that the business named on the submitted employment tax returns, Elijah Farm, was not entitled to the claimed refunds as reported on those returns:

COUNT	DATE	CLAIM
ONE	11/2/20	The submission of an IRS Form 941 claiming a federal tax refund of \$1,961.
TWO	11/4/20	The submission of an IRS Form 7200 claiming a federal tax refund of \$21,465.40.
THREE	1/9/21	The submission of an IRS Form 941 claiming a federal tax refund of \$7,533.55.
FOUR	1/28/21	The submission of an IRS Form 941 claiming a federal tax refund of \$79,831.96.
FIVE	4/17/21	The submission of an IRS Form 941 claiming a federal tax refund of \$2,253,700.
SIX	5/24/21	The submission of an IRS Form 941X claiming a federal tax refund of \$280,708.07.
SEVEN	5/24/21	The submission of an IRS Form 941X claiming a federal tax refund of \$279,840.07.

COUNT	DATE	CLAIM
EIGHT	5/24/21	The submission of an IRS Form 941X claiming a federal tax refund of \$526,934.50.
NINE	6/11/21	The submission of an IRS Form 941X claiming a federal tax refund of \$414,274.
TEN	7/12/21	The submission of an IRS Form 941 claiming a federal tax refund of \$9,474,690.36.
ELEVEN	8/13/21	The submission of an IRS Form 941X claiming a federal tax refund of \$505,853.57.
TWELVE	8/13/21	The submission of an IRS Form 941X claiming a federal tax refund of \$819,756.10.
THIRTEEN	10/4/21	The submission of an IRS Form 941 claiming a federal tax refund of \$13,428,314.24.
FOURTEEN	10/14/21	The submission of an IRS Form 941X claiming a federal tax refund of \$2,920,062.
FIFTEEN	11/10/21	The submission of an IRS Form 941X claiming a federal tax refund of \$1,155,705.
SIXTEEN	1/9/22	The submission of an IRS Form 941 claiming a federal tax refund of \$23,877,620.

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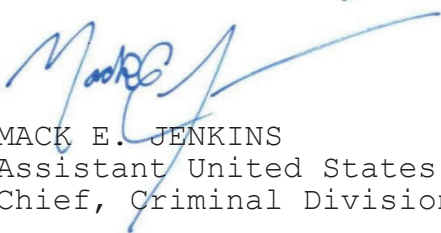
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COUNT	DATE	CLAIM
SEVENTEEN	4/24/22	The submission of an IRS Form 941 claiming a federal tax refund of \$9,243,348.

A TRUE BILL

/s/
Foreperson

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